



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,874	07/09/2001	Hirozo Amano	70101	5943

7590 09/09/2003

McGLEW AND TUTTLE, P.C.  
SCARBOROUGH STATION  
SCARBOROUGH, NY 10510-0827

EXAMINER

NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
----------	--------------

1772

7

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-7

# Office Action Summary

Application No.

09/901,874

Applicant(s)

AMANO ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 6-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 6-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claims***

1. Pursuant to entry of the amendment dated 16 July 2003 (Paper No. 6), claims –2 and 6-23 are pending.

### ***Rejections Withdrawn***

2. The 35 USC 102 rejection of claims 1, 2, 6, 7, and 11-12 as anticipated by Bradt (US 6,238,788), as set out in section 9 of the 16 April 2003 office action (Paper No. 5), is withdrawn in view of the arguments presented on page 8 of Paper No. 6.
3. The 35 USC 103 rejection of claims 1, 2, 6,7 and 11-12 as unpatentable over Bradt in view of applicants' admission on pages 1-2 of the specification, as recited in section 12 of Paper No. 5, is withdrawn in view of applicants' arguments on pages 9 and 10 of Paper No. 6.
4. The 35 USC 103 rejection of claims 3-5, 8-10 and 13-15 as unpatentable over Bradt and applicants' admission taken with Suzuki (EPO 0282773) as described in section 14 of Paper No. 5, is withdrawn in view of applicants' arguments on page 10 of Paper No. 6.

### ***Rejection Maintained***

5. The 35 USC 103 rejection of claims 3, 4, 8, 9, and 13 as unpatentable over Bradt and applicants' admission in view of Weiss (US 5,459,978), as stated in section 13 of Paper No. 5, is maintained for reasons of record.

**New Rejection**

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-2, and 6-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the specification a pag3 7, lines 20-21, applicants state that inner layer 4 and the outer layer 5 are heat sealed when the casing made. Also, at page 7, lines 1-12, they state that the outer layer is broken and cut at the heat seal 7 when the casing is opened. However, these features are not recited in the claims.

It is suggested that applicants include language in claims 1 and 11 to add the features described immediately above therein, in order to clarify how the casing is made and how it is opened.

Please clarify the claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-2 and 6-23 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that applicants did not argue against the rejection maintained above in Paper No. 5.

Art Unit: 1772

***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/872-9306. The receptionist answers 703/308-0661.



S. M. Nolan  
Patent Examiner  
Technology Center 1700

SMN/smn  
09901874(7)  
08 September 2003